

THE GEORGE WASHINGTON UNIVERSITY
Washington , D.C.

MINUTES OF A REGULAR MEETING
OF THE FACULTY SENATE HELD ON
SEPTEMBER 21, 1984, IN LISNER HALL
Room 603

1 The meeting was called to order by President Elliott at 2:11 p.m.

Present: President Elliott, Vice President French, Registrar Grimm, Parliamentarian Schechter, Altshuler, Birnbaum, Cheh, Claeysens, Eldridge, Fox, Frey, Greene, Griffith, Hill, Kelly, Kenney, Kramer, Liebowitz, Loeser, Lovett, Morgan, Pierpont, Plotz, Rashid, D. Robinson, L. Robinson, Schiller, Schlagel, Solomon, Smith, Tolchin, and Wallace

Absent: Barron, Castleberry, Lang, Levy, and Singpurwalla

2 Professor Wallace, on behalf of the Faculty Senate, offered the following tribute in memory of Professor Guido Ettore Mazzeo:

I ask you to pause a moment to join me in honoring the memory of Professor Guido Ettore Mazzeo. It was only a short while ago, at our last Senate meeting in this room on May 4 that Professor John Frey expressed words of appreciation to Professor Mazzeo upon the occasion of his retirement from active status in the University community. Little did we realize that he would enjoy emeritus status for such a short time. Those of us who had the privilege of serving with him for four years in the Senate are grateful for his leadership on a committee important to all of us--the Senate Library Committee. I will not repeat Professor Frey's retirement tribute which included a description of his background and service. That is a matter of the record now. What I want to say today is that we honor his memory here because he enriched our lives; indeed, the remembrance of the kind, gentle, generous and scholarly person that he was will be with us always. Permit me to quote a line from his favorite passage, Don Quixote's words of advice to Sancho, as a legacy from Guido to us: "Strive to lay bare the truth, and if perchance you permit the staff of justice to bend, let it be not by the weight of a gift, but by that of mercy."

The Senate rose for a moment of silent tribute.

3 The minutes of the regular meeting of May 4, 1984, were approved as distributed.

Professor Griffith then moved that the order of the agenda be changed for the purpose of taking up Item 5(a) before Item 4. Old Business. The motion was seconded and unanimously adopted.

- 5 (a) On behalf of the Appointment, Salary and Promotion Policies Committee, Professor Lilien Robinson, Chairman, moved the adoption of Resolution 84/9, "A Resolution to Endorse Proposed Changes in the Retirement Benefits," and the motion was seconded. Professor Robinson said that the ASPP Committee began a study of TIAA/CREF and alternative benefits in 1980. A questionnaire was sent to retired faculty and active status faculty in 1981 soliciting their comments on the present plan and need for any changes. In 1983, the Committee concluded that it did not have the expertise to make a thorough study of alternative plans and recommended that a Special Committee be designated to study this matter. A Special Committee of four members was elected by the Senate, chaired by Professor Theodore S. Sims. Subsequently, a second committee, TIAA-CREF Study Committee, was established by President Elliott and chaired by Vice President Diehl to review this same matter. The proposals before the Senate represented recommendations of the second committee. Professor Robinson said that the ASPP Committee endorses these proposals and she urged adoption of this resolution. If approved by the Board of Trustees in October, she said, the new options could be implemented by July, 1985. Thanking the Special Committee for its work, Professor Robinson then asked the privilege of the floor for Professor Sims, Chairman of the Special Committee.

Professor Sims said that the work of the Special Committee of the Senate was delayed in part because of the absence of two members who were on leave. As Chairman of the Special Committee, Professor Sims said that he was invited by Vice President Diehl to participate in the deliberations of the TIAA-CREF Study Committee, which, in his view, had accomplished much or all of what the Senate Special Committee could have expected to achieve. Basically, he said, the recommendations would add two additional service providers, the Equitable Life Assurance Society and the Vanguard Group of Mutual Funds, to the existing TIAA/CREF retirement program. The addition of these two service providers would offer more flexibility to the participants, and, in his view, he thought this was a desirable change to the existing retirement program and he supported adoption of these recommendations.

Professor Lilien Robinson then asked the privilege of the floor for Vice President Diehl, Chairman of the TIAA-CREF Study Committee. He explained that the recommendations of the committee were based upon the result of reviews of plans of six universities, presentations by TIAA/CREF and four other service providers, and consultation with an outside investment finance specialist. The committee selected Equitable and Vanguard as additional service providers because of their records of investment performance and successful experience to date in administering comparable retirement investment programs at other universities. He pointed out that the committee's recommendation that TIAA/CREF continue to be offered and that the basic contribution of the University continue to be invested in TIAA/CREF was made because of its long-standing reputation in providing stable retirement income. However, employees would be free to invest their contributions in TIAA/CREF, Equitable, or Vanguard. The committee also recommended that the University's contribution not be withdrawable except for the currently permissible ten percent at the time of retirement. With regard to the employee's contribution, the committee

recommended that those funds be withdrawable in the event of disability, financial hardship, on separation from service, or at the time of retirement, with the condition that "cashing out" on separation from service be limited to those employees who have participated in the retirement plan for at least five years. Vice President Diehl then offered to answer any questions Senate members might have.

A discussion followed by Professors Fox, Sims, Schiller, Morgan, Vice President Diehl, and Dean Kelly. The question was called and Resolution 84/8 was adopted unanimously. (Resolution 84/8 attached with Report of TIAA-CREF Study Committee.)

- 4 (a) President Elliott then recognized Professor Morgan, Chairman, Professional Ethics and Academic Freedom Committee, for further discussion of Resolution 84/5, "A Resolution to Amend the Procedures for Implementation of Article X of the Faculty Code, Paragraph E," postponed to this meeting. Professor Morgan deferred to Professor Griffith, former Chairman of the Committee, to lead the discussion.

Professor Griffith reminded the members that a new Article X of the Code was approved by the Senate at its May meeting (Resolution 84/4) and that Resolution 84/5 would amend the procedures for implementing the new Article X. He then explained in detail the proposed amendments. A discussion followed by Professors Schiller, Cheh, Griffith, Morgan, Rashid, Smith, Eldridge, and Dean Kelly. Professor Griffith asked the privilege of the floor for Professor Victor H. Cohn, Chairman, Grievance Committee, who recommended removing the time constraint imposed on the Hearing Committee in Paragraph 8) under Procedure for Hearings because of the undue burden it places on the Hearing Committee. Further discussion followed by Professors Griffith, Schiller, and Morgan. Professor Smith moved that Section E)3)b)1 be amended by deleting the words "The complainant" and substituting the words "Either party" in the second sentence to read: "Either party may challenge for cause the arbitrator appointed," The motion was seconded. The question was called and the motion was passed.

Professors David Robinson and Cheh spoke against the resolution because of their concerns about the potential for significantly increasing the number of disputes that may be raised and subject to arbitration, resulting in enormous cost to the University. Professor Robinson then moved that the resolution be referred back to the Professional Ethics and Academic Freedom Committee for further study, and Professor Cheh seconded the motion. A discussion followed by Professors Smith, Griffith, Cheh, Morgan, D. Robinson, Eldridge, and President Elliott. The question was called and the motion to recommit was defeated. Professor Morgan then moved that further action on Resolutions 84/5 and 84/6 be postponed to the November 9, 1984, Senate meeting and that the Executive Committee request Senate members to distribute, in writing, at the October 12, 1984, Senate meeting any recommendations or amendments with regard to Resolutions 84/5 and 84/6 for Senate consideration before the November 9th Senate meeting. The motion was seconded. The question was called and the motion was adopted. (Resolution 84/5 attached.)

- 4 (b) Discussion and action on Resolution 84/6, "A Resolution to Amend the Procedures for Implementation of the Faculty Code, Paragraph F, Dismissal of a Faculty Member," was postponed by the Senate to the November 9, 1984, Senate meeting. (Resolution 84/6 attached.)

6 No resolutions were introduced under Introduction of Resolutions.

7 (a) Professor Griffith moved the nomination for election of faculty and students to the following Senate Committees: Administrative Matters as They Affect the Faculty: Professor Mona E. Zaghloul; Athletics: Mr. Jim Spitz and Mr. Steve Frick, students; Educational and Admissions Policy: Mr. Ira Gubernick, student; Library: Mr. Jim Deutsch, student; Physical Facilities: Mr. Phil Sobocinski, student; Public Ceremonies: Mr. Bob Guarasci and Mr. Rick Santos, students; Grievance Committee (3-year term): Professor Lewis A. Schiller; University and Urban Affairs: Associate Professor Shirley R. Barnett, Professor John A. Frey, and Associate Professor Howard F. Gillette, Jr. The nominations were approved.

(b) Professor Griffith moved the nomination for appointment of faculty to the following Administrative Committees: Joint Committee of Faculty and Students: Professor Robert G. Jones; Presidential Appeals Board: Assistant Professor Arnold D. Gale; University Bookstore: Assistant Professor Miriam V. Dow; Panel for Student Grievance Review Committees: Associate Professor Charles A. Garris. The nominations were approved.

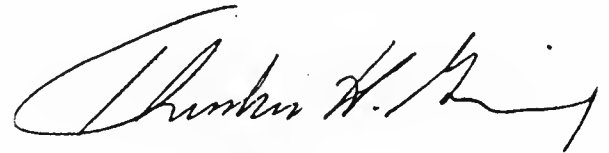
(c) On behalf of the Executive Committee, Professor Griffith reported that the Committee had recently received a Report on Women's Athletics by Lynn George from President Elliott for Faculty Senate response. The Senate Committees on Athletics, Alumni Affairs, Fiscal Planning and Budgeting, and Joint Committee of Faculty and Students have been requested to review this report and make recommendations before the end of the fall semester. Last fall these same four Senate Committees were asked to respond to Steven Bilsky's Report on Men's Athletics and, to date, only the Athletics Committee has responded, and he urged the chairmen of these committees to review and report back to the Senate on both of these reports as soon as possible. He reminded members that all Senate committees are required to meet at least once a year at the beginning of each Senate session and he asked that the former chairmen forward committee files to the new chairmen to facilitate the work of the Senate. Another matter considered and approved by the Executive Committee was his proposal that the Faculty Senate elect a Special Committee to undertake a self-study. Noting that the Commission for the Year 2000 is presently undertaking a general review of the University situation, the Executive Committee thought it appropriate for the Senate to take a look at its own structure, and, in this regard, will be recommending the election of a Special Committee at the October Senate meeting. With regard to the status of grievances, Professor Griffith reported that the hearing in the case of Assistant Professor Bruce E. Committee was concluded on September 14th with written closing statements to be submitted within three weeks. A request from a faculty member of the Medical Center for referral of a complaint to the Grievance Committee was received, and through the process of informal consultation with the Executive Committee, Professor Griffith thought the matter may be satisfactorily resolved. He then read a statement on behalf of the Executive Committee with respect to the Board of Trustees' action in the grievance of Associate Professor Nicolas Kyriakopoulos against the Personnel Committee of the Department of Electrical Engineering and Computer Science. (Statement attached and made a part of these minutes.)

(d) The Annual Reports of the University and Urban Affairs Committee and Athletics Committee were received as distributed with the agenda.

- 8 Under Brief Statements, Professor Morgan said he wished to comment on the change in compensation for summer teaching. Apparently, compensation for teaching a summer course is now justified by a set number of students. This policy, he assumed, is based on the reality of tuition dollars and the cost of offering the course. However, he said, it is not at all unusual for a faculty member to be asked to conduct an independent study course for one student, for which credit is given and tuition charged, without compensation to the faculty member. He thought the two practices are incongruous and suggested that they be reviewed by the Appointment, Salary and Promotion Policies Committee or the Educational Policy Committee. Professor Lilien Robinson commented that the Appointment, Salary and Promotion Policies Committee was presently considering the matter of summer salaries.

Professor Rashid, Chairman of the Public Ceremonies Committee, expressed her thanks to Professor Alan Wade, Chairman of the Opening Convocation Committee, and the members of that committee for an excellent Convocation.

- 9 Upon motion made and seconded, the meeting was adjourned at 4:10 p.m.



Theodore H. Grimm, Jr.
Secretary

A RESOLUTION TO ENDORSE PROPOSED CHANGES IN THE RETIREMENT BENEFITS (84/8)

WHEREAS, the Faculty Senate has received a recommendation to endorse the Report of a Special Committee appointed to review the University's use of TIAA/CREF as the sole retirement program; therefore

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY

That the Faculty Senate endorses the findings and recommendations of the TIAA-CREF Study Committee and recommends the implementation of the Committee's recommendations with the following insertion on Page 2 in the first line of Item 4 after "review committee": ", including members of the Faculty Senate Committee on Appointment, Salary and Promotion Policies (including Fringe Benefits),"

Committee on Appointment, Salary and Promotion Policies
(including Fringe Benefits)
September 7, 1984

Adopted 9/21/84



THE
GEORGE
WASHINGTON
UNIVERSITY

Washington, D.C. 20052 / Office of Vice President and Treasurer

May 11, 1984

MEMORANDUM TO: DR. LLOYD H. ELLIOTT, PRESIDENT

FROM: CHARLES E. DIEHL, VICE PRESIDENT AND TREASURER

SUBJECT: REPORT OF THE TIAA-CREF STUDY COMMITTEE

Last December you asked that a committee be organized to review the University's use of TIAA-CREF as the sole retirement program available to University employees. Over the past four months, members of the TIAA-CREF Study Committee have reviewed the approaches employed and the conclusions reached by six other universities in examining this same question. (Johns Hopkins, Stanford, Georgetown, Duke, Wake Forest and the University of Rochester) These six universities carefully studied all aspects of their retirement programs over a period of nine to eighteen months with the help of benefits and investment consultants, at considerable out-of-pocket expense. They concluded that it would be appropriate to offer their participants a range of choices in the investment of their retirement program contributions.

Based on the experience of these Universities, the Committee invited presentations by TIAA-CREF and by four other organizations, two or more of which had been selected by each of these six universities.

In its deliberations, the Committee retained the services of Mr. Leonard W. Johnson, a person well known to you as an investment finance specialist and who is well acquainted with the academic environment. Mr. Johnson has had direct experience with this University in his former capacity of Senior Vice President of David L. Babson and Company, the endowment investment counsel for the University for more than fifteen years.

Attached is Mr. Johnson's report to the Committee, which includes investment performance evaluation and other comparative information used by the Committee to arrive at its decisions. The Summary of Recommendations listed on the first page has undergone several modifications and reflects a consensus among members of the Committee and the Consultant.

These recommendations follow:

1. That TIAA and CREF continue to be offered as investment options in all relevant University retirement plans.
2. That the University's contributions to the Basic Retirement Plan continue to be invested only with TIAA and CREF. The individual may choose to invest his/her own contributions to the basic plan in TIAA and CREF or in additional annuity and mutual fund programs of other providers designated by the University. The individual may also choose to invest in a supplemental plan using programs designated by the University.
3. That designated funds offered by the Vanguard Group and the Equitable Life be offered in addition to TIAA and CREF. Offering these additional choices would increase by eighteen the number of investment options from those presently available through the TIAA/CREF selection process. The participant would retain the options to specify the division between TIAA and CREF for both the University's and his/her own contributions.
4. That an appropriate review committee, including members of the Faculty Senate Committee on Appointment, Salary and Promotion Policies (including Fringe Benefits), be established to evaluate the program at annual intervals
5. - That a suitable communications program be developed and implemented to enhance the understanding within the University community not only of these new investment alternatives but also of the need for sound planning as a prerequisite for a financially secure retirement.

The number of additional service providers was limited to two in the interests of practicability in administration of what generally will be a significant modification of the University's retirement program. Equitable and Vanguard were selected on the basis of their presentations, their records of investment performance, and their successful experience to date in administering comparable retirement investment programs at other Universities.

These recommendations should have little or no cost impact on the University. Employees would be given investment control over their own contributions to the Basic Retirement Plan, but the University would retain control over its contributions.

Although the investment choices to be offered are some of the best managed retirement investment funds available, it should be emphasized that the results of our study indicated that providing participants a greater range of investment choice will introduce an additional measure of exposure to risk which may be greater than is the case with CREF. Legal counsel has informally advised that, where control over retirement investments lies with the employee, the institution is not liable to the employee (or his/her heirs, agents, or assigns).

The University must make it clear that it cannot accept any responsibility for the participant's choices, which rest solely with the participant. However, the University will have to inform participants of these greater risks and their potential impact on participants' retirement investment benefits. The potential volatility of the stock market presents inherent risks and rewards which may be reflected in all of these investment choices, particularly when the participant can change his/her form of investment more frequently under the new choices available. Market timing and shifting between a number of fixed income, equity, and short term investments will be made available if the Board of Trustees approves our new plan.

Members of the Committee believe that providing eighteen additional investment choices, as compared with a range of thirty to forty at the six other universities studied, is sufficiently responsive to those individuals who would like more freedom of choice and flexibility in the management of their retirement investment program.

The Committee also reviewed the University's existing policies concerning so-called "lump sum withdrawals" of amounts in the retirement plan. As of now, consistent with the restrictions imposed by TIAA-CREF, an employee may withdraw up to ten percent of his or her account balance at retirement, but must otherwise take his/her retirement benefits in the form of a life annuity.

These restrictions are not required by law. Indeed, the tax laws appear to impose no restrictions on the surrender of annuity contracts issued by insurance companies. Where a university retirement fund is invested through a mutual fund group, such as Vanguard (so-called "Section 403(b)(7) plans"), an employee may make lump-sum withdrawals, but only in the event of death, disability, financial hardship, separation from service, or on reaching age 59-1/2.

After reviewing existing arrangements and in light of applicable legal requirements, the Committee concluded that University contributions should not be withdrawable other than in the form of a life annuity at retirement except for the currently permissible ten percent of an employee's accumulation at the time of retirement.

With respect to all of the employee's contributions, eligible and non-eligible for University matching, the Committee recommends relaxing the existing restrictions. Specifically, the Committee recommends that restrictions be changed so that they conform to those imposed by statute on Section 403(b)(7) plans invested in mutual funds. In other words, the Committee recommends that amounts attributable to employee contributions to the basic plan be withdrawable (in whole or in part) at death, on separation from service, in the event of disability or financial hardship, or at the

time of retirement. The Committee recommends, however, that the option of "cashing out" on separation from service not be available until the expiration of five years after the commencement of an employee's participation in the retirement plan.

The Committee does not recommend any change in the treatment of salary reduction contributions which are in excess of those eligible for University matching. Consequently, except as otherwise restricted by law, such amounts would remain withdrawable by participants at any time. Of course, the legal aspects of our recommendations with whatever disclaimers may be appropriate must be reviewed by legal counsel before proceeding with implementation.

Within the next eighteen months, several developments which may have a significant impact on personnel benefits in higher education are likely to occur. The National Association of College and University Business Officers (NACUBO) and a new Carnegie Commission are about to begin studies of TIAA-CREF and the whole retirement and other benefits area. Recent actions by TIAA-CREF demonstrate new flexibility in responding to the competitive demands of the investment management market, but reflect the prudent philosophy of retirement investment planning for which they are well known. For these reasons the Committee believes that implementing these recommendations is sufficient until the conclusions of these more comprehensive nationwide studies are available.

If you approve, I suggest that you authorize the Vice President and Treasurer to negotiate with the selected firms to ensure the most attractive administrative and investment costs available to the individual employee based on the experience of other universities. The Vice President for Research and Administration, the Director of Personnel Services, and the Comptroller would of course be involved in the negotiations.

Our recommendations also describe the need for a communications program to be developed and implemented to ensure an understanding by the University community not only of these new investment choices but also of the need for sound planning as a prerequisite for a financially secure retirement. To accomplish these objectives, members of the Committee realize that it will be essential for the offices of Personnel, the Comptroller, the Computer Center and Academic Publications, to assign a high priority to this program and for an adequate budget to be allocated for the publications.

If these recommendations are to be implemented by July 1, 1985, we should probably consult with the Committee on Financial Affairs of the Board of Trustees on the general concept of the plan at the May meeting, and then obtain final approval at the October meeting of the Board. Production of appropriate publications and planning for employee briefings could then be scheduled by those responsible.

Attachment: Retirement Plan Investment Options

C: COMMITTEE MEMBERS

RETIREMENT PLAN INVESTMENT OPTIONS

CONTRIBUTION SOURCES

RETIREMENT PLAN OPTIONS

	<u>TIAA/CREF</u>	<u>EQUITABLE</u>	<u>VANGUARD</u>
<u>EMPLOYER'S CONTRIBUTIONS</u> (2% to 10% of regular earnings)	X		
<u>EMPLOYEES' REGULAR CONTRIBUTIONS (1)</u> (1% to 5% of regular earnings)	X	X	X
<u>EMPLOYEES' ADDITIONAL CONTRIBUTIONS (2)</u> (amounts in excess of 5% of regular salary plus permissible %'s of supplement earnings)	X	X	X

NOTES: (1) Employee will have the option of investing 100% of his/her regular contribution in either TIAA/CREF or Equitable or Vanguard.

(2) Employee will have an independent option to invest 100% of his/her additional contribution in either TIAA/CREF, or Equitable or Vanguard.

VANGUARD

The Vanguard Group of Investment Companies has its headquarters in Valley Forge, Pennsylvania and started its first fund in 1928. At present, the Group has 14 funds totalling over \$6 billion in assets.

The individual funds offered by Vanguard and which are recommended for investment by The George Washington University participants are as follows:

EQUITY FUNDS

Windsor Fund	invests primarily in common stocks and seeks long-term growth of principal and income. Current income is a secondary objective.
Ivest Fund	seeks to provide long-term capital appreciation by investing in an international diversified portfolio of equity securities. Dividend income is incidental.
W.L.Morgan Growth	seeks long-term growth of capital by investing primarily in equity securities. The fund differs from other more traditional growth funds by a consistent commitment to having a portion of its assets invested in emerging growth companies.
Vanguard Index Fund	seeks to match the performance of the Standard & Poor's 500 Stock Index. Owns the 500 stocks contained in the Index.
U.S. Portfolio	seeks to maximize long-term total return by investing primarily in common stocks. The fund is the first mutual fund to be advised by Batterymarch Financial Management, one of the nation's leading money managers.
Explorer Fund	seeks long-term growth of capital by investing in securities of relatively small, unseasoned or embryonic companies. The fund has commensurately high investment risks.

BALANCED FUNDS

Wellington	seeks conservation of principal, reasonable income and profits without undue risk. This fund is balanced, two-thirds of which is normally invested in common stocks and one-third in fixed income.
Wellesley	A balanced fund which seeks to provide as much income as is consistent with reasonable risk by investing in bonds and common stocks.

FIXED INCOME FUNDS

Investment Grade Bond	invests in "investment grade" bonds.
High Yield Bond	invests in "medium maturity" corporate bonds.
GNMA	invests in U.S. guaranteed mortgage-backed securities.
Short Term	invests in short-term investment grade bonds.

MONEY MARKET

Prime

invests in high-quality money market certificates of deposit and banker's acceptances of major U.S. banks and prime commercial paper.

Federal

invests only in securities guaranteed or backed by the U.S. Government and its agencies.

EQUITABLE

The Equitable Life Assurance Society, based in New York, is the nation's third largest life insurance company. The firm is also a major factor in the pension field. Equitable currently manages in excess of \$35 billion in pension assets.

The following funds, available only for tax-favored programs, are recommended for the George Washington participants:

Stock

is for those who are seeking a diversified common stock portfolio for long-term growth of capital and income.

Fund

Balanced

is for investors who prefer to diversify their retirement assets through a variety of investment vehicles such as stocks, bonds and money market instruments.

Fund

Bond Fund

is for investors who seek interest income while having an opportunity for capital appreciation through investments in fixed income securities of varying maturities.

Money Market

is for investors who prefer to concentrate primarily in short-term money market instruments in the hopes of obtaining a high rate of current return and preserving their principal.

Fund

A RESOLUTION TO AMEND THE PROCEDURES FOR IMPLEMENTATION OF ARTICLE X OF THE
FACULTY CODE, PARAGRAPH E (84/5)

WHEREAS, the Morgan Report recommended modifying the Procedures for Implementation of Article X to reduce expense, waste of time and confusion over procedural complexities, by reducing the role of legal counsel to an advisory one or, alternatively, by adjoining a presiding hearing officer to the existing faculty hearing committee; and

WHEREAS, the Committee on Professional Ethics and Academic Freedom, after extensive consultation and review, concludes that the hearing-officer alternative is an approach more protective of faculty rights, and offers surer guarantees of reducing procedural error, confusion and waste of time while still protecting the faculty's role in self-governance; and

WHEREAS, supplementing the full grievance hearing-and-appeal procedure by an arbitration process, for settling substantive disputes which do not involve those specific invasions of professional rights which are grievable, also appears to promise speedier, less costly and more far-reaching dispute resolution; THEREFORE

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY

That the current procedures in Paragraph E for dealing with grievances be revised and extended by substituting a new Paragraph E (see attached), to provide for:

1. a binding arbitration process (cf. 3. a and 3. b pp 4-5)
2. An experienced Hearing Officer to preside and expanded Hearing Committee authority (a) to dismiss frivolous, non-specific, or repetitious complaints (3. c. & 3. d., pp 5-8), and (b) to control the hearing itself (3. d., p 8); and
3. other improvements proposed in the Morgan Report, with respect to Preliminary Proceedings (2. b & 2. c, p. 3) and reports of findings and recommendations (3. d, pp. 8-9), and Appeals (4. a, b, & d p 10).

Committee on Professional Ethics and Academic Freedom of The Faculty Senate
April 20, 1984

Postponed 5/4/84 to next regular Senate meeting (9/21/84)

Postponed 9/21/84 to the November 9, 1984 Senate meeting

A RESOLUTION TO AMEND THE PROCEDURES FOR IMPLEMENTATION OF THE FACULTY CODE,
PARAGRAPH F, DISMISSAL OF A FACULTY MEMBER (84/6)

WHEREAS, the procedures provided in Paragraph F for Dismissal of a Faculty Member for Adequate Cause under Article V, Paragraph C of the Faculty Code are closely linked to the Procedures for Implementation of Article X in Paragraph E, THEREFORE

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY

That Paragraph F be brought into conformity with Paragraph E of the Procedures by substituting "Dispute Resolution" for "Grievance" Committee wherever the latter term appears as shown in the attached:

Committee on Professional Ethics and Academic Freedom of The Faculty Senate
April 20, 1984

Postponed 5/4/84 to next regular Senate meeting (9/21/84)

Postponed 9/21/84 to the November 9, 1984 Senate meeting

September 21, 1984

STATEMENT TO THE FACULTY SENATE CONCERNING THE BOARD OF TRUSTEES' ACTION IN THE
GRIEVANCE OF ASSOCIATE PROFESSOR KYRIAKOPOULOS AGAINST THE
PERSONNEL COMMITTEE OF THE DEPARTMENT OF ELECTRICAL ENGINEERING AND COMPUTER SCIENCE (EECS)

In a letter to the Executive Committee dated June 28, 1984, President Elliott reported that, at the Board of Trustees' meeting on June 21, 1984, the recommendations of the Hearing Committee and the Appeals Panel of the Grievance Committee in the grievance of Associate Professor Kyriakopoulos were reviewed. The Board refused the recommendation of both committees that the grievant be promoted, and "remanded for a rehearing on the question whether he merits promotion to full professor." Since this order is not intelligible without some background, the Executive Committee agreed that a summary of the case should be provided the Senate and faculty along with an interpretation of how, in our view, this decision should be interpreted.

Dr. Kyriakopoulos had charged that his rights under the Faculty Code had been violated (a) by lack of known established procedures used in determining whether his record met the criteria for promotion, and (b) by the arbitrary and capricious evaluation of his record by the Personnel Committee. He further alleged that his record as of 1978 met the criteria for promotion and that he should be promoted as of that date.

Simplifying considerably a complex record, the Hearing Committee found, and, on appeal by the Department, the Grievance Committee Appeals Panel sustained, that the Department had violated Code requirements in considering Dr. Kyriakopoulos' record for promotion, thereby invading his rights under the Code. The Appeals Panel further agreed with the Hearing Committee's recommendation that the injury to the grievant be remedied and that this long-festering dispute be resolved by promoting the grievant as of 1983-84. Both panels, however, declined to judge the merits of the case for or against promotion; the Hearing Committee, in particular, stated that "the grievant's contention that he merited promotion in 1978 cannot be supported nor denied, since the Department's criteria...were inoperable for decision making." (p. 10)

In a second letter, dated August 14, 1984, clarifying the Board's order, President Elliott wrote: "The Board was unwilling to approve the promotion of Professor Kyriakopoulos on the basis of technical defects in the procedures followed by the department and in the absence of an affirmative finding that he met the criteria for promotion to full professor." The Board has therefore required the Department to bring its criteria and procedures for promotions into conformity with the Faculty Code, and to reconsider whether Dr. Kyriakopoulos was qualified to be recommended for promotion in 1978 or in any succeeding year up to the present. Vice President French has been asked by the President to oversee on behalf of the Board this reconsideration.

Because this is the first time, to the best of our knowledge, a recommendation of our Grievance Committee has been reversed and remanded by the Board of Trustees, the Executive Committee has carefully considered the implications of this Board action. For the guidance of faculty and departments in reading this decision, we offer the following interpretation. The Executive Committee takes the position that the Board's decision may be taken as ruling out a recommendation of promotion as a remedy for procedural violation of a faculty member's rights unless some faculty group has also found affirmatively that the individual concerned merited promotion. But we do not take this as implying that the only remedy for any procedural violation of faculty rights is a reconsideration by that same group under corrected procedures.

(Read by Professor Griffith on behalf of the Executive Committee)

The George Washington University

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 **adopted, as amended
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THE GEORGE WASHINGTON UNIVERSITY
Washington, D.C.
20052

The Faculty Senate

September 10, 1984

The Faculty Senate will meet on Friday, September 21, 1984, at 2:10 p.m. in Lisner Hall 603.

AGENDA

1. Call to order
2. In memoriam Professor Guido E. Mazzeo (by Professor Ruth E. Wallace)
3. Approval of the minutes of the regular meeting of May 4, 1984
4. Old Business:
 - (a) A RESOLUTION TO AMEND THE PROCEDURES FOR IMPLEMENTATION OF ARTICLE X OF THE FACULTY CODE, PARAGRAPH E (84/5), postponed May 4, 1984, to September 21, 1984; Professor John A. Morgan, Jr., Chairman, Professional Ethics and Academic Freedom Committee (Resolution 84/5 attached with text)
 - (b) A RESOLUTION TO AMEND THE PROCEDURES FOR IMPLEMENTATION OF THE FACULTY CODE, PARAGRAPH F, DISMISSAL OF A FACULTY MEMBER (84/6), postponed May 4, 1984, to September 21, 1984; Professor John A. Morgan, Jr., Chairman, Professional Ethics and Academic Freedom Committee (Resolution 84/6 attached with text)
5. Resolutions:
 - (a) A RESOLUTION TO ENDORSE PROPOSED CHANGES IN THE RETIREMENT BENEFITS (84/8) with accompanying reports; Professor Lilien F. Robinson, Chairman, Appointment, Salary and Promotion Policies Committee (including Fringe Benefits); (Resolution 84/8 attached with Sims Report and Amling Report)*
6. Introduction of Resolutions
7. General Business:
 - (a) Nomination for election of faculty and students to the following Senate Committees: Administrative Matters as They Affect the Faculty: Professor Mona E. Zaghoul; Athletics: Mr. Jim Spitz and Mr. Steve Frick, students; Educational and Admissions Policy: Mr. Ira Gubernick, student; Library: Mr. Jim Deutsch, student; Physical Facilities: Mr. Phil Sobocinski, student; Public Ceremonies: Mr. Bob Guarasci and Mr. Rick Santos, students; Grievance Committee (3-year term): Professor Lewis A. Schiller

*NOTE: A motion to change the order of the agenda will be made for the purpose of taking up this resolution before Item 4. Old Business

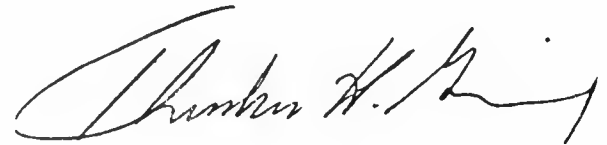
(continued)

7. General Business (cont'd)

- (b) Nomination for appointment of faculty to the following Administrative Committees: Joint Committee of Faculty and Students: Professor Robert G. Jones; Presidential Appeals Board: Assistant Professor Arnold D. Gale; University Bookstore: Assistant Professor Miriam V. Dow; Panel for Student Grievance Review Committees: Associate Professor Charles A. Garriss
- (c) Report of the Executive Committee: Professor William B. Griffith, Chairman
- (d) Annual Reports: University and Urban Affairs Committee and Athletics Committee (reports attached)

8. Brief Statements

9. Adjournment



Theodore H. Grimm, Jr.
Secretary

A RESOLUTION TO AMEND THE PROCEDURES FOR IMPLEMENTATION OF ARTICLE X OF THE FACULTY CODE, PARAGRAPH E (84/5)

WHEREAS, the Morgan Report recommended modifying the Procedures for Implementation of Article X to reduce expense, waste of time and confusion over procedural complexities, by reducing the role of legal counsel to an advisory one or, alternatively, by adjoining a presiding hearing officer to the existing faculty hearing committee; and

WHEREAS, the Committee on Professional Ethics and Academic Freedom, after extensive consultation and review, concludes that the hearing-officer alternative is an approach more protective of faculty rights, and offers surer guarantees of reducing procedural error, confusion and waste of time while still protecting the faculty's role in self-governance; and

WHEREAS, supplementing the full grievance hearing-and-appeal procedure by an arbitration process, for settling substantive disputes which do not involve those specific invasions of professional rights which are grievable, also appears to promise speedier, less costly and more far-reaching dispute resolution; THEREFORE

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY

That the current procedures in Paragraph E for dealing with grievances be revised and extended by substituting a new Paragraph E (see attached), to provide for:

1. a binding arbitration process (cf. 3. a and 3. b pp 4-5)
2. An experienced Hearing Officer to preside and expanded Hearing Committee authority (a) to dismiss frivolous, non-specific, or repetitious complaints (3. c. & 3. d., pp 5-8), and (b) to control the hearing itself (3. d., p 8); and
3. other improvements proposed in the Morgan Report, with respect to Preliminary Proceedings (2. b & 2. c, p. 3) and reports of findings and recommendations (3. d, pp. 8-9), and Appeals (4. a, b, & d p 10).

Committee on Professional Ethics and Academic Freedom of The Faculty Senate
April 20, 1984

Postponed 5/4/84 to next regular Senate meeting (9/21/84)

E. PROCEDURES FOR IMPLEMENTATION OF ARTICLE X OF THE FACULTY CODE

E. Procedures for Implementation of Article X of the Faculty Code

1. *Grievance Committee*

The Faculty Senate shall elect a Grievance Committee of fifteen tenured active status faculty members, no more than three of whom shall be members of the faculty of any one school or college (except that four may be members of the faculty of Columbian College) and none of whom may be serving as academic administrators. The members of the Committee shall serve three-year staggered terms, so that the terms of five of the members shall expire each year. The Faculty Senate shall designate the Chairman of the Committee from among the members of the Committee. Alternate temporary members may be appointed at any time by the Executive Committee to facilitate the grievance procedures.

2. *Preliminary Proceedings*

a) Before instituting any formal proceedings concerning an alleged violation of the Faculty Code, the aggrieved party or parties shall exhaust all reasonable efforts to achieve a resolution of the situation through informal consultation with the appropriate faculty members and administrative officers.

b) If informal consultation fails to resolve the matter, the aggrieved party shall refer the dispute to the Faculty Senate by means of a letter addressed to the Chairman of the Executive Committee. The Senate shall appoint a special mediation committee of three members, none of whom shall be members of the Grievance Committee; and this mediation committee shall conduct an informal investigation of the matter and attempt to effect a mutually satisfactory resolution.

c) The special committee shall submit a report to the Faculty Senate, with copies transmitted to the parties, when it has either achieved a mutually satisfactory resolution or concludes that further efforts at mediation would be futile. The report shall in-

clude, if appropriate, the committee's evaluation of, or recommendations concerning, any university, college, school, or departmental policies or practices involved in the dispute.

E. PROCEDURES FOR IMPLEMENTATION OF ARTICLE X OF THE FACULTY CODE

1. Grievance Dispute Resolution Committee

The Faculty Senate shall elect a Grievance Dispute Resolution Committee of fifteen tenured active status faculty members, no more than three of whom shall be members of the faculty of any one school or college (except that four may be members of the faculty of Columbian College) and none of whom may be serving as academic administrators. The members of the Committee shall serve three-year staggered terms, so that the terms of five of the members shall expire each year. The Faculty Senate shall designate the Chairman of the Committee from among the members of the Committee. Alternate temporary members may be appointed at any time by the Executive Committee to facilitate the grievance procedures.

2. Preliminary Proceedings

b) If informal consultation fails to resolve the matter, the aggrieved party shall refer the dispute to the Faculty Senate by means of a letter addressed to the Chairman of the Executive Committee. The Senate Executive Committee shall appoint either a special mediator or a special mediation committee of three members, none of whom shall be members of the Grievance Dispute Resolution Committee; and this mediator or mediation committee shall conduct an informal investigation of the matter and attempt to effect expeditiously a mutually satisfactory resolution. The appointment shall be recorded in the minutes of the Faculty Senate.

c) The special mediator or mediation committee shall submit a report to the Faculty-Senate Executive Committee, with copies to the parties, when either a mutually satisfactory resolution has been achieved or it is concluded that further efforts at mediation would be futile. The report shall include, if appropriate, an evaluation of, or recommendations concerning, any university, college, school, or departmental policies or practices involved in the dispute.

3. Formal Proceedings

a) Commencement of Proceedings

1) If the preliminary proceedings do not result in a mutually satisfactory resolution of the dispute, any party to the dispute may commence formal proceedings by means of a complaint addressed to the Chairman of the Grievance Committee, with copies sent to the Chairman of the Executive Committee of the Faculty Senate and the other party or parties.

2) The complaint shall set forth with particularity the nature of the dispute, the identity of the remedy sought, and the reasons alleged to justify the remedy.

3) Within twenty calendar days of the receipt of the complaint, the other party or parties to the dispute shall reply in writing, sending copies of the reply to the Chairman of the Grievance Committee, the Chairman of the Executive Committee of the Faculty Senate, and the complaining party or parties.

4) The reply shall set forth with particularity the position of the replying party or parties with respect to each allegation of the complaint.

3. Formal Proceedings

a) Commencement of Proceedings

1) If the preliminary proceedings do not result in a mutually satisfactory resolution of the dispute, any party to the dispute may commence formal proceedings by means of a complaint addressed to the Chairman of the Grievance Dispute Resolution Committee, with copies sent to the Chairman of the Executive Committee of the Faculty Senate and the other party or parties.

2) The complaint shall set forth with particularity the nature of the dispute, specifying the rights or responsibilities under the Faculty Code alleged to have been violated or the substantial injury allegedly inflicted, the specific act or acts alleged to constitute the violation or to have inflicted the injury, the identity of the remedy sought, and the reasons alleged to justify the remedy.

3) Within twenty calendar days of the receipt of the complaint, the other party or parties to the dispute shall reply in writing, sending copies of the reply to the Chairman of the Grievance Dispute Resolution Committee, the Chairman of the Executive Committee of the Faculty Senate, and the complaining party or parties. -4- The reply shall set forth with particularity the position of the replying party or parties with respect to each allegation of the complaint.

4) Upon receipt of the complaint and reply, the Chairman of the Dispute Resolution Committee shall, with the advice of the Executive Committee of the Faculty Senate, consider whether the matter in dispute is suitable for arbitration; and if he finds it so, shall recommend arbitration to the parties. Agreement to arbitration binds the parties to accept the arbitrator's award. If the parties agree, the Chairman of the Dispute Resolution Committee shall initiate the arbitration process as specified below. If the matter in dispute is not suitable for arbitration or the parties fail to agree on arbitration, the Chairman of the Dispute Resolution Committee shall appoint a Hearing Committee and Hearing Officer as provided below to consider whether a grievance may be maintained.

E. PROCEDURES FOR IMPLEMENTATION

3. Formal Proceedings

b) Arbitration

- 1) Upon mutual agreement to arbitration, an arbitrator shall be picked by the Chairman of the Dispute Resolution Committee from a panel of University faculty who are qualified by experience and training. The complainant may challenge for cause the arbitrator appointed, in which case the Dispute Resolution Committee shall review the challenge, and if it is found justified, the Chairman shall appoint another arbitrator.
- 2) The arbitrator shall request expeditiously that the parties concerned submit documents and other information enabling the arbitrator to determine that an arbitrable dispute exists. This initial activity may include interviewing the parties. If the arbitrator finds that the dispute is not an arbitrable one under Article X.B. 2 of the Code, he shall return the dispute to the Dispute Resolution Committee for disposition. Otherwise a time for hearing shall be set as soon as all parties can appear.
- 3) The arbitration hearing is less formal than that for resolving grievances, and emphasis shall be on a complete and fair presentation of the issues. The arbitrator may question witnesses and otherwise assist the parties to present the information needed to make an informed decision. Each party may make a closing statement after all testimony has been presented.
- 4) The award and a written reason for the decision shall be prepared by the arbitrator within 60 days from conclusion of the hearing. A copy shall be sent to the faculty member, any other parties to the dispute, and the Dispute Resolution Committee. The award is binding on the parties, including the University, should it be a party.

c. Hearing Committee and Hearing Officer

- 1) If the issue in dispute is not suitable for arbitration or the parties fail to agree to binding arbitration, the Chairman of the Dispute Resolution Committee shall, with the advice of the Executive Committee of the

b) Hearing Committee

- 1) Upon receipt of the complaint, the Chairman of the Grievance Committee

E. PROCEDURES

3. Formal Proceedings

c. Hearing Committee and Hearing Officer

1)/cont./

mittee of the Faculty Senate, appoint a Hearing Committee of three members from among the members of the Grievance Committee. If the Hearing Committee finds that the complaint is based upon issues, evidence or allegations that have been previously heard and decided, or which could have been presented in a previous hearing, the

Hearing Committee, in its discretion, may dismiss the complaint.

Faculty Senate, appoint a Hearing Committee of three members from among the members of the Dispute Resolution Committee, and a presiding Hearing Officer from a panel of names previously approved by the Executive Committee. The Hearing Officers shall be chosen from among University personnel of appropriate experience and training, but need not be attorneys. The role of the Hearing Officer throughout these procedures is to assure an orderly, expeditious, and relevant hearing; to assure the development of a complete, fair and reliable record; and to advise the Hearing Committee as to issues of substance and procedure. The Hearing Committee may request the replacement of the Hearing Officer at any time.

(Delete rest of original section.)

2) No member of the same department as a party shall sit on the Hearing Committee. Any party to a dispute may disqualify one member of the Hearing Committee by peremptory challenge. Any party may also seek to disqualify a member of the Hearing Committee for cause. The Grievance Committee shall hear and decide any challenges for cause. The Chairman of the Grievance Committee shall, from among the remaining members of the Grievance Committee, fill any vacancies on the Hearing Committee created by challenges.

2) No member of the same department as a party shall sit on the Hearing Committee. Any party to a dispute may disqualify one member of the Hearing Committee by peremptory challenge. Any party may also seek to disqualify a member of the Hearing Committee for cause. The Dispute Resolution Committee shall hear and decide any challenges for cause. The Chairman of the Dispute Resolution Committee shall, from among the remaining members of the Dispute Resolution Committee, fill any vacancies on the Hearing Committee created by challenges.

E. PROCEDURES FOR IMPLEMENTATION

3. Formal Procedures

(C) ~~B~~ Hearing Committee

3) When all challenges have been decided and vacancies filled, the Hearing Committee shall convene, establish a schedule for the hearings, and elect a chairman from among its members to preside during the formal proceedings.

P 24

4) All three members of the Committee shall be present during the hearings and the deliberations of the Committee except that the presence of one of them during part of the proceedings may be waived by agreement of the parties.

P 24

- 3) When all challenges have been decided and vacancies filled, and as soon as reasonably possible after receipt of respondent's reply, the Chairman of the Dispute Resolution Committee shall convene the Hearing Committee to review the Complaint. If a defendant moves to dismiss, and if the Chairman of the Dispute Resolution Committee and two members of the Hearing Committee or if all members of the Hearing Committee, after an opportunity for informal argument by the parties, find that the complaint does not allege facts sufficient to state a grievance under the Code or that the complaint is based upon evidence or allegations which are substantially the same as those that have been previously heard and decided, or which could have been presented in a previous hearing, the complaint shall be automatically referred to the Dispute Resolution Committee for consideration at the earliest reasonable time. If ten members of the Dispute Resolution Committee (including the Chairman and the members of the Hearing Committee) conclude that for any of the reasons set out in this section a hearing is not warranted, the complaint shall be dismissed and the matter deemed closed.
- 4) On the determination that a hearing is warranted, the Hearing Committee shall be convened by the presiding Hearing Officer and establish a schedule for the hearing.
- 5) (Code Para. 4 renumbered)
- 6) It shall be the duty of the Hearing Officer to convene promptly the meetings of the Hearing Committee and to preside; to assure the expeditious disposition of the case; to rule on all questions of substance or procedure necessary to the conduct of the hearing, subject to being overridden by a majority vote of the Hearing Committee; to ask questions and to control the development of testimony and of evidence in the record as deemed appropriate; to prepare a draft opinion for the use of the Hearing Committee; and to advise the Hearing Committee in its deliberations on questions of substance and procedure. The Hearing Officer does not vote on the ultimate questions of fact, substance, procedure, or policy, as these are acted upon by the Hearing Committee. The Hearing Officer signs dispositive orders of the Hearing Committee only to authenticate them.

E. PROCEDURES FOR IMPLEMENTATION

c) Procedure for Hearings

1) The parties to the proceedings shall be entitled to appear in person and to be represented by counsel or other adviser.

2) The Hearing Committee may, in its discretion, request that the Executive Committee of the Faculty Senate designate a member of the Law Faculty to serve as Committee Counsel to advise the Committee on legal questions during the hearings and deliberations.

3. Formal Proceedings

d) Procedure for Hearings

2) A grievance procedure is not a formal judicial proceeding. Its purpose is to provide a fair evaluation of the allegation that a right or a responsibility has been violated. In order to achieve that end, the Hearing Committee shall have authority to require the appearance of any material witness who is a member of the University faculty, administration, or staff, and also any other person who is willing to testify; to question parties and witnesses; to exclude matters it deems irrelevant; and to place reasonable limits on arguments, the presentation of evidence, and the questioning of witnesses by the parties.

3) The procedure at the hearings shall be informal, but shall comply with the requirements of fairness to the parties. The Hearing Committee is not required to comply with rules of evidence applicable in courts of law and may receive any relevant evidence which is not privileged. The Hearing Committee may decline to consider evidence where its probative value is outweighed by considerations of unfair prejudice, confusion of the issues, undue delay, waste of time, or needless presentation of cumulative evidence. The parties shall be entitled to testify on their own behalf, to require the appearance of any material witness who is a member of the University faculty, administration, or staff, and to call any other person who is willing to testify; to present written and other tangible evidence, and to cross-examine witnesses called by other parties. Sworn depositions may be received in evidence at the discretion of the Hearing Committee. A party shall be entitled to inspect and copy, in advance of the hearing, any relevant documents in the control of the other party and not privileged, and may offer such documents or excerpts therefrom in evidence.

E. Procedures for Implementation of
Article X of the Faculty Code

3. Formal Proceedings

q) Procedure for Hearings

4) The parties shall be entitled to present opening and closing statements.

5) A stenographic record of the hearings shall be made and one copy, which shall be available to all parties, kept on file by the University.

6) The hearings shall be open to the public unless, on the motion of a party or the Hearing Committee, the Hearing Committee shall determine that it is in the best interest of the University and the parties that the hearings be closed.

7) At the conclusion of the taking of evidence and the hearing of arguments, the Committee shall deliberate and reach its decision in closed session. The vote of a majority shall be determinative.

8) The Hearing Committee shall render its findings and recommendations in a written report which shall state the number of members subscribing to the report and shall include dissenting opinions, if any. This report shall be submitted to the Chairman of the Executive Committee of the Faculty Senate and copies shall be transmitted to the parties.

3. Formal Proceedings

q) Procedure for Hearings

8) Within ten calendar days the Hearing Committee shall render its findings and recommendations in a written report which shall state the number of members subscribing to the report and shall include dissenting opinions, if any. This report shall be submitted to the Chairman of the Executive Committee of the Faculty Senate and copies shall be transmitted to the parties and to the Chairman of the Dispute Resolution Committee.

E. Procedures for Implementation of
Article X of the Faculty Code

4. Appeals

a) Any party may appeal the decision of the Hearing Committee by filing a notice of appeal with the Chairman of the Grievance Committee and sending copies thereof to the Chairman of the Executive Committee of the Faculty Senate and to the other parties. The notice of appeal must be filed with-

in ten days of the receipt of the decision of the Hearing Committee.

b) An appeal shall be heard by those members of the Grievance Committee who were not members of the Hearing Committee provided that members of the Committee who were disqualified from sitting as members of the Hearing Committee and members of the same department as any of the parties shall not participate in the hearings of the appeal.

c) The parties to an appeal shall be entitled to present written and oral argument.

d) The Grievance Committee shall render an opinion in writing, sustaining, modifying, or remanding the decision of the Hearing Committee. Copies of the opinion shall be transmitted to the parties and the Chairman of the Executive Committee of the Faculty Senate.

4. Appeals

a) Any party may appeal the decision of the Hearing Committee by filing a notice of appeal with the Chairman of the Grievance Dispute Resolution Committee and sending copies thereof to the Chairman of the Executive Committee of the Faculty Senate and to the other parties. The notice of appeal must be filed within ten calendar days of the receipt of the decision of the Hearing Committee.

b) An appeal shall be heard by members of the Grievance Dispute Resolution Committee who were not members of the Hearing Committee provided that members of the Committee who were disqualified from sitting as members of the Hearing Committee and members of the same department as any of the parties shall not participate in the hearings of the appeal. A quorum for hearing an appeal shall be two-thirds of those members of the Grievance Dispute Resolution Committee eligible under the terms of this section.

d) The Grievance Dispute Resolution Committee shall decide by majority vote and render an opinion in writing, sustaining, modifying, or remanding the decision of the Hearing Committee. Copies of the opinion shall be transmitted to the parties and the Chairman of the Executive Committee of the Faculty Senate.

F. Procedures for the Dismissal of a Faculty Member for Adequate Cause

1. Commencement of Proceedings

a) Proceedings to dismiss a tenured faculty member for adequate cause may be commenced by a complaint, addressed to the Chairman of the Grievance Committee, signed by the Vice President for Academic Affairs and either the dean or the department chairman who has administrative responsibility for the faculty member concerned. The complaint shall set forth the grounds alleged to constitute adequate cause for dismissal. A copy of the complaint shall

be delivered in hand to the faculty member concerned or shall be sent by registered mail to the faculty member's residence. A copy of the complaint shall also be sent to the Chairman of the Executive Committee of the Faculty Senate.

b) Proceedings may also be commenced by a petition, setting forth the grounds alleged to constitute adequate cause for dismissal and signed by a majority of the tenured faculty of the school or college of the faculty member concerned, or twenty tenured members of that faculty, whichever is the lesser. A copy of the executed petition shall be delivered in hand to the faculty member concerned or sent by registered mail to his residence. Copies shall also be sent to the Chairman of the Grievance Committee, the Chairman of the Executive Committee of the Faculty Senate, and the Vice President for Academic Affairs.

c) Within twenty calendar days of the receipt of the complaint, the faculty member concerned shall reply in writing, sending copies of the reply to the Chairman of the Grievance Committee, to the Chairman of the Executive Committee of the Faculty Senate, and to the Vice President for Academic Affairs. The reply shall set forth with particularity the responding faculty member's position with respect to each allegation of the complaint.

F. Procedures for the Dismissal of a Faculty Member for Adequate Cause

1. Commencement of Proceedings

a) line 4: Strike "Grievance" and insert "Dispute Resolution"

b) line 12: Strike "Grievance" and insert "Dispute Resolution"

c) line 5: Strike "Grievance" and insert "Dispute Resolution"

A RESOLUTION TO AMEND THE PROCEDURES FOR IMPLEMENTATION OF THE FACULTY CODE,
PARAGRAPH F, DISMISSAL OF A FACULTY MEMBER (84/6)

WHEREAS, the procedures provided in Paragraph F for Dismissal of a Faculty Member for Adequate Cause under Article V, Paragraph C of the Faculty Code are closely linked to the Procedures for Implementation of Article X in Paragraph E, THEREFORE

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY

That Paragraph F be brought into conformity with Paragraph E of the Procedures by substituting "Dispute Resolution" for "Grievance" Committee wherever the latter term appears as shown in the attached:

Committee on Professional Ethics and Academic Freedom of The Faculty Senate
April 20, 1984

Postponed 5/4/84 to next regular Senate meeting (9/21/84)

F. Procedures for the Dismissal of a Faculty Member for Adequate Cause

2. *Hearing Committee*

a) Upon receipt of the complaint, the Chairman of the Grievance Committee shall, with the advice of the Executive Committee of the Faculty Senate, appoint a Hearing Committee of six members from among the members of the Grievance Committee.

b) No member of the same department as the faculty member concerned and no one who has signed a petition seeking that faculty member's dismissal shall sit on the Hearing Committee. The faculty member concerned may disqualify two members of the Hearing Committee by peremptory challenge and may also seek to disqualify a member of the Hearing Committee for cause. The Grievance Committee shall hear and decide any challenges for cause. The Chairman of the Grievance Committee shall, from among the remaining members of the Grievance Committee, fill any vacancies on the Hearing Committee created by challenges.

c) When all challenges have been decided and vacancies filled, the Hearing Committee shall convene, establish a schedule for the hearings, and elect a chairman from among its members to preside during the formal proceedings.

d) All of the members of the Hearing Committee shall be present during the hearings and the deliberations of the Committee except that the presence of one of them during part of the proceedings may be waived by agreement of the parties.

3. *Procedure for Hearings*

The procedure for the hearings shall be the same as provided in Part E of these Procedures, except that the hearing shall be closed on the motion of the faculty member concerned, and that the Hearing Committee may recommend the dismissal of the faculty member concerned only by the affirmative vote of two-thirds of its members.

4. *Appeals*

The faculty member concerned may appeal the decision of the Hearing Committee in accordance with the procedures provided in Part E, Paragraph 4, of these Procedures.

5. *Attorneys' Fees and Expenses*

If a faculty member prevails against charges brought against him or her, the University may, upon recommendation of the Hearing Committee, reimburse the faculty member concerned for all or part of attorneys' fees and expenses actually incurred in his or her

F. Procedures for the Dismissal of a Faculty Member for Adequate Cause

2. *Hearing Committee*

a) line 2 & 6:
Strike "Grievance" and insert "Dispute Resolution"

b) lines 10, 12 & 14:
Strike "Grievance" and insert "Dispute Resolution."

c)

d)

3. *Procedure for Hearings*

4. *Appeals*

5. *Attorney's Fees and Expenses*

A RESOLUTION TO ENDORSE PROPOSED CHANGES IN THE RETIREMENT BENEFITS (84/8)

WHEREAS, the Faculty Senate has received a recommendation to endorse the Report of a Special Committee appointed to review the University's use of TIAA/CREF as the sole retirement program; therefore

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY

That the Faculty Senate endorses the findings and recommendations of the TIAA-CREF Study Committee and recommends the implementation of the Committee's recommendations with the following insertion on Page 2 in the first line of Item 4 after "review committee": ", including members of the Faculty Senate Committee on Appointment, Salary and Promotion Policies (including Fringe Benefits),"

Committee on Appointment, Salary and Promotion Policies
(including Fringe Benefits)
September 7, 1984



THE
GEORGE
WASHINGTON
UNIVERSITY

Washington, D.C. 20052 / Faculty Senate / (202) 676-7198

MEMORANDUM

August 1, 1984

TO: Faculty Senate Members

FROM: Theodore S. Sims, Associate Professor of Law *T.S. Sims*
Chairman, Senate Special Committee on Retirement Benefits

RE: TIAA-CREF

I am writing to urge that the Faculty Senate give favorable consideration to the recommendations, formulated by a committee designated by President Elliott and chaired by Vice President Diehl (the "Administration Committee"), for revisions to the University's existing arrangements relating to its retirement plan.

Early last year, the Faculty Senate designated a Special Committee, consisting of Professors Frederick Amling, James R. Barth, Henry M. Steiner, and myself (the "Special Committee"), to review the University's existing arrangements for the funding of retirement plan contributions through Teachers' Insurance & Annuity Association ("TIAA") and the College Retirement Equities Fund ("CREF"). For reasons for which I am mostly responsible, the Special Committee did not commence work until the beginning of the 1983-84 academic year. At that time, progress of the Committee's work was hampered by the fact that Professor Amling was on sabbatical and Professor Barth was on leave at the Congressional Budget Office.

Toward the end of 1983, President Elliott designated the Administration Committee, chaired by Vice President Diehl, to review the same matters. Because I had been named the chair of the Special Committee, I was invited to join in the deliberations of the Administration Committee. It rapidly began to appear to me that the latter was moving on a far faster track than the Special Committee, with various members on leave, possibly could. After speaking with Professor Morgan, I therefore refrained from further pursuing the work of the Special Committee, and participated in the deliberations of the Administration Committee, which itself required a substantial commitment of time.

That Administration Committee now has formulated and forwarded to President Elliott a series of recommendations, which include adding two additional service providers, the Equitable Life Assurance Society

and the Vanguard Group of Mutual Funds, to the existing retirement program. (Together, the addition of these two firms collectively would increase from two to about 20 the number of investment choices available to participants in the retirement plan.) Under the Administration Committee's recommendations, University contributions to the basic plan (up to 10 percent of compensation) would continue to be funded exclusively through TIAA-CREF. However, participating faculty and staff would be free to allocate their own contributions, both to the basic plan and any supplemental contributions, to TIAA-CREF or to the other designated investment vehicles. In addition, the Administration Committee has recommended altering the existing restrictions on withdrawal of employee contributions to the basic plan, so they could be withdrawn (in whole or in part) in a lump sum at specified times.

I understand that the Administration Committee's recommendations to President Elliott, as well as the committee Consultant's Report, already have been forwarded to the Faculty Senate Executive Committee. I also understand that the Administration Committee's recommendations have been endorsed by President Elliott, but have not yet been submitted for approval by the Trustees.

Recognizing that there is always more that could be done, I regard the Administration Committee's recommendations as a substantial step forward, and I personally am prepared to endorse them. They accomplish much or all of what the Senate Special Committee could reasonably have expected to achieve. I must say, in addition, that given the multiplicity and difficulty of the issues that have arisen, I believe that on the whole the Administration Committee's recommendations represent a major accomplishment, not least in view of the fact that they were produced with such dispatch.

I personally furnished copies of the Administration Committee's recommendations (together with the Consultant's Report) to the other members of the Senate Special Committee in June, requesting their reaction to those documents. Thus far, given that it is the summer, I have been unable to secure their views. Consequently, in writing this memorandum I speak only for myself. Nevertheless, as I have said, I regard the work of the Administration Committee as a significant step forward, I believe its recommendations deserve to be adopted, and I would urge its endorsement by the Faculty Senate.

cc: Professor Amling
Professor Barth
Professor Steiner



THE
GEORGE
WASHINGTON
UNIVERSITY

School of Government and Business Administration / Washington, D.C. 20052

*Department of
Business Administration
(202)676-6115*

September 6, 1984

TO: Faculty Senate Members

FROM: Frederick Amling *Frederick Amling*
Professor of Finance and Investments
Graduate School of Business and
Government,
Committee on Retirement Benefits

RE: Report on the TIAA-CREF Study Committee
(Administration Committee)

The recommendations of the TIAA-CREF Study Committee represent a good compromise. They retain the TIAA-CREF system but provide flexibility and breadth of investment opportunity for those who wish it.

The TIAA-CREF program has done a reasonably good job in the past, although its long run performance has been weak. Performance depends on the time period covered. The data in Exhibit 5 present another time frame for performance.

**Exhibit 5: Comparing Investors' Average Annual Total Returns
(to end of 1982)**

	<u>1 Year</u>	<u>3 Years</u>	<u>5 Years</u>	<u>10 Years</u>
CREF	22.1%	15.1%	13.9%	5.0%
Other Pension Funds	21.9	15.4	14.9	5.4
Insurance-Run Equity Funds	22.4	16.4	15.3	6.0
Bank-Run Equity Funds	21.5	15.4	14.4	4.8
Lipper Growth Mutual Funds	20.2	14.8	16.4	4.9
CDA Growth & Income Mutual Funds	23.9	15.1	15.2	8.0

(These data are ones in which CREF participates, as on the pension funds, or purchases and used to publish when CREF's performance reporting was fuller.)¹²

Source: Business Officers Magazine, May 1983, p. 11.

I calculated the returns of CREF for the years 1974 through 1983. The average rate of return for CREF was 15.06 percent. The return of the S&P 500 Index was 16.05 percent. Thus the "market" earned a slightly higher return than CREF.

The cost of administration must be subtracted to make the average comparable. CREF's management costs were .25 percent. The market return is therefore reduced to 15.80 percent, and was higher than the CREF return by .74 percent. The difference is not considered significant.

The CREF returns were less volatile than the returns of the S&P 500 for the period. The standard deviation of the CREF returns was 10.7 percent while that of the S&P was 14.5 percent. The CREF returns were slightly lower than the S&P 500 returns but were more stable, in conclusion.

The more recent returns of CREF seem to be higher than past returns.

In my judgement this was good performance for the period. One can conclude that there was little justification for a change in the CREF program based upon the most recent performance figures.

The major criticism of the TIAA-CREF program is the lack of alternatives and the inflexibility of the recovery of the contributions. This seems to be handled well by the new alternatives, namely, the funds offered by the Vanguard Group and Equitable life. The university employee will have new alternatives including, I hope, money market funds. The risk element will be put on the employee as the decision maker. While there is no guarantee that the employee's choice will do better than CREF, the employee has the chance of doing better.

My conclusion would be to accept the recommendation of the TIAA-CREF Study Committee.

THE GEORGE WASHINGTON UNIVERSITY
INTERDEPARTMENTAL MEMORANDUM

FACULTY SENATE -- 1983/1984 SESSION

ANNUAL REPORT OF THE COMMITTEE ON UNIVERSITY AND URBAN AFFAIRS

1. During the 1983/1984 session, no specific matters were referred to the Committee and no resolutions were passed.
2. The Committee met three times to consider the following issues:
 - a) The development of a questionnaire on faculty involvement in the community and on University public relations activities.
 - b) The interaction between the community and the service staff at the University.
 - c) The manner in which the community can contribute to the ongoing discussions for the year 2000.
 - d) The emergence of an international visibility for the University.

Respectfully submitted,

Hermann J. Halgert, Chairman
Shirley R. Barnett
Helga W. Binder
Jeffrey R. Henig
Honey W. Nashman
Theodore G. Toridis
Garland D. Wiggs

FACULTY SENATE - 1983-1984

Annual Report of the Athletics Committee

The Committee met once to discuss the Report of the Men's Athletic Program. After lengthy discussion a motion was made expressing strong support for the general policies and goals outlined in Mr. Bilsky's Report. The motion passed unanimously. The Committee agreed that further consideration of at least two aspects of the Report would be useful. These are the implications of the University going on record as being willing to allow exceptions to our admission requirements for athletically gifted individuals and the fiscal implications of capital expenditures for the expansion of athletic facilities. Further discussion of these two points is planned for the the upcoming year.

Respectfully submitted,

Randall K. Becker

Athletics Committee

Packer, R.K. Acting Chairman

Eielski, L.S.

Brown, R.G.

Burdetsky, B.

Caress, E.A.

El-Ansary, A.

O'Rear, C.

Potts, E.A.

Snodgrass, J.E.

Weintraub, H.D.

ex officio:

Bilsky, S.

George, L.H.

Phelps, M.R.